

Town of Lincoln

Zoning Board of Review

100 Old River Road, Lincoln, RI

Minutes of September 7, 2010 Meeting

Present: Jina Karampetsos, John Bart, Mark Enander, Barry Nickerson, Bernard McNamara, Lori Lyle, Anthony DeSisto (Town Solicitor)

Excused: David DeAngelis

Minutes

Motion made by Member Nickerson and seconded by Member Lyle to acceptance of the July 2010 Minutes as presented. Motion carried with a 5-0 vote.

Motion made by Member Enander and seconded by Member Bart to acceptance of the August 2010 Minutes as presented. Motion carried with a 5-0 vote.

Applications:

First Facility Lincoln LLC, c/o Richard R. Ackerman, 191 Social Street, Woonsocket, RI – Application for Use Variance for the installation of signage at the intersection of Albion Road and George Washington Highway, Lincoln, RI.

AP 41, Lot 44 Zoned: BL 0.5

Represented by: Richard Ackerman, Esquire

Chair read into the record correspondence from Attorney Ackerman requesting continuance of the application to the October agenda.

Motion made by Member McNamara to continue the application.

Motion seconded by Member Lyle. Motion carried with a 5-0 vote.

Preferred Towing Recovery & Auto Sales LLC c/o Christine Marie Labbe, 296 Angell Road, Lincoln, RI – Application for Use Variance for sale of repossessed vehicles at property located at 147/149 Reservoir Avenue, Lincoln, RI.

AP 06, Lot 347 Zoned: VCMU

Represented by: John Bevelacqua, Esquire

Applicant submitted into the record an updated survey/parking plan as requested by the Board at the August meeting. The Planning Board also issued a recommendation for this application which was not available at the August meeting.

Witness

Mark Labbe, Owner

He has operated Preferred towing since 2003 which is an existing towing company with storage at the rear of the property. Applicant has the right to auction and sell vehicles under Section 39-12.1-9.

They are not requesting permission to sell used vehicles just those vehicles on the premises as a result of towing and repossession. Main use of the premises is a towing business. Any accessory use would be enforced by zoning.

Chair asked Solicitor if it would be possible for the town to keep records to show sale of vehicles would only be those towed or repossessed. Town Solicitor replied the town could keep records for sale of cars to reflect it is a towing business. A condition could be placed that reports be submitted showing their sales and origin of the vehicles. Member Enander inquired about ingress and egress from the site. Attorney replied new plans could address this issue and also that of adequate parking spaces.

Mark Labbe informed the Board that there were four separate business (1 building) units on the lot – hair salon, picture framer, scooter store (used for storage) and the towing company for an approximate total of approximately 4,950 sq.ft. – did not have accurate number. Chair informed applicant that using the square footage he submitted there needs to be 25 parking spaces on the site.

Attorney replied there are 17 existing but room for more. Chair informed applicant and his attorney that the Board cannot render a decision on where more parking can be located and needs documentation to support their statement of room for additional spaces. Sufficient parking is part of zoning and needs to be demonstrated. Attorney replied they could have an engineer testify

as to where the additional parking spaces would be located.

Chair informed attorney the application could be continued to the October agenda so they could return with:

 Plans showing the exact square footage of the buildings.

 What existing retail space is currently used for by which tenants and the square footage of each unit.

 A parking plan showing the 25 required parking spaces.

 Testimony of an engineer to support same.

 Demonstrate egress and ingress on the property showing curb cuts.

Attorney for applicant agreed to the continuance and stated if relief was needed for parking they will amend their application.

Motion made by Member Enander to continue the application to the October agenda. Motion seconded by Member Lyle. Motion carried with a 5-0 vote.

Cox TMI Wireless, 1 Lacroix Drive, West Warwick, Rhode Island – Application for Use Variance for additional antenna to existing tower located at 28 Breakneck Hill Road, Lincoln, RI.

AP 25, Lot 58 Zoned: RA 40

Represented by: Edward Pare, Esquire

Application was continued at the last meeting because the Area

Planning Concern Committee (APC) had not submitted a recommendation to this Board. Russell Hervieux, Zoning Official informed the Board that he spoke with the Town Planner who could not submit a recommendation for tonight's meeting. The APC met on September 1, 2010 and there were no issues with the application and gave a positive recommendation with no conditions.

Chair read into the record standards that need to be met for a Use Variance.

Attorney Pare informed the Board that the unipole that will house the antenna was installed last year and Cox will have the third slot at 100 feet. There will be three antennas located inside the pole and not in public view. Submitted summary of the proposal as Exhibit #1. There are plantings surrounding the equipment compound. The radio frequency map shows the gap in coverage which is about two miles in diameter. The Board is aware that Cox prefers to use existing structures rather than construct new ones.

Chair read into the record TRC recommendation:

Members of the Technical Review Committee visited the site and reviewed the submitted project plans and application. The Planning Board recommends Approval of this application. The proposed project represents the installation, operation and maintenance of a wireless telecommunications facility attached to an existing telecommunications tower. The supporting equipment will be located

at the base of the existing tower. The Planning Board feels that the applicant presents a realistic site layout that meets the intent of the zoning with special consideration given to the §260-67. The Board feels that the telecommunication installation will not be detrimental to the surrounding residential neighborhood. The Planning Board feels that the use variance will not alter the general character of the surrounding area and will not impair the intent or purpose of the zoning ordinance or Comprehensive Plan.

No opposition present.

Motion made by Member Enander to approve the application stating:

- The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area and is not due to a physical or economic disability of the applicant.
- The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.
- The granting of this variance will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.
- The relief requested is the least relief necessary.
- The subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of the Zoning Ordinance.

Motion seconded by Member Bart. Motion carried with a 5-0 vote.

Charles & Sharon Manion, 4 Rockycliff Drive, Lincoln, RI – Application for Dimensional Variance for rear and side yard relief for the construction of an addition.

AP 45, Lot 225 Zoned: RA 40

Chair read into the record standards that need to be met for a Dimensional Variance.

Applicants want to add a second floor to their existing house to accommodate three children born in an eighteen month period. Footprint of the property will not increase. Chair asked about the size of the deck at the rear of the property as the plans did not have any calculations. Applicant replied the deck is 12'x12' and that the deck is wider than its length. Russell Hervieux, Zoning Official addressed the Board stating the application showed 69.2 feet but his calculations showed 67.2 feet. Chair replied they would consider the deck to be 69.2 feet and work from there. He also stated they have 57.2 feet leaving 17.8 feet variance.

Applicant stated her parents are abutters. There is an existing brick entryway and the addition and garage will be vinyl sided to match the house.

No opposition present.

Chair read into the record TRC recommendation:

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The proposed dimensional variances for the rear and side yards is to clear up the pre-existing nonconformance of this parcel of land. The existing one story house is located within the setbacks. This application is to add another story to this existing house. The original footprint of the house will not change. The Planning Board recommends Approval of this application. The Board feels that the proposed design and layout of the proposed addition is due to the location of the existing house on the lot. The Planning Board finds that the relief requested will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.

Motion made by Chair to grant 17.8 feet rear and 13.34 feet north side relief. She further stated:

- The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area and is not due to a physical or economic disability of the applicant.**
- The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.**

- **The granting of this variance will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.**
- **The relief requested is the least relief necessary.**
- **The hardship amounts to more than a mere inconvenience, meaning there is no other reasonable alternative to enjoy a legally permitted beneficial use of the property**

Motion seconded by Member Enander. Motion carried with a 5-0 vote.

Motion made by Member Nickerson to adjourn the meeting. Motion seconded by Member Bart. Motion carried with a 5-0 vote.

**Respectfully submitted,
Ghislaine D. Therien
Zoning Secretary**